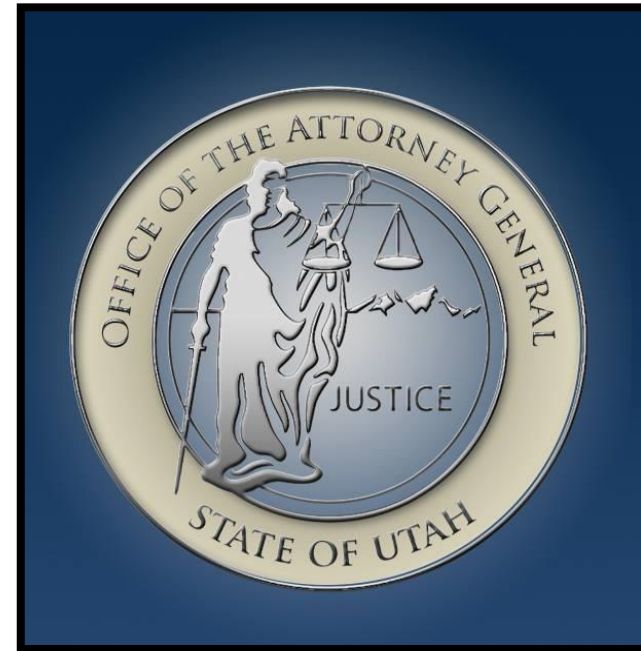


Misdemeanors Matter

New County Attorney Seminar

January 22, 2014

Utah Prosecution Council



Prevalent view?

Can't wait to prosecute "real cases"

Misdemeanors are not "important cases"

"Don't you have anything better to do?"

Why?

Establish prior criminal history for later sentencing.

Studies confirm anecdotal assumptions that misdemeanants often progress into violent felonies or repeat misdemeanor crimes.

50.4% of criminal activity is committed by people with a prior misdemeanor conviction.

9.8% is committed by those with no priors.



Misdemeanors – the numbers

Utah FY 2014

86,336 misdemeanor cases filed = 79% of all criminal cases

483,584 when you add traffic (technically misdemeanors) = 95% of all criminal cases

NHTSA Crime / Crash Clock

CRIME

1 murder every 32 minutes

1 agg. assault every 37 seconds

1 violent crime every 23 seconds

v.

v.

v.

CRASH

1 crash fatality every 12 minutes

1 crash injury every 11 seconds

1 property damage crash every 7 seconds

United States - Traffic

2012	33,808 speeding related deaths
2012	10,228 impaired driving -related fatalities
2011	3,331 people killed in distracted driving cases (Plus 387,000 physical injuries)

Utah DUI Arrests / Fatalities by FY

<u>Year</u>	<u>Number</u>	<u>Per 10,000</u>	<u>DUI / alcohol fatalities</u>
2010	15,285	56	25
2011	13,816	40	39
2012	13,031	46	20
2013	12,227	43	23
2014	10,901	38	—

Your county?

DUI enforcement & prosecution is **effective** – Utah statistics

1st offense 70%

2nd offense 19%

3rd offense 7%

DUI Practice Note: Enhancements – ARREST / NO DISPOSITION AVAILABLE

DUI cite and release to responsible party in some jurisdictions

Contact the local court – get certified copy of J&C

Complexity of DUI prosecution: sample UPC technical assistance & training

Defense using DL hearing transcript for cross examination in criminal hearing

Defense subpoena every single witness in chain of custody in blood draw DUI

Defense “substitute toxicologist” motions

Imperfect administration of SFST – admissibility

Complexity of DUI prosecution: sample UPC technical assistance & training

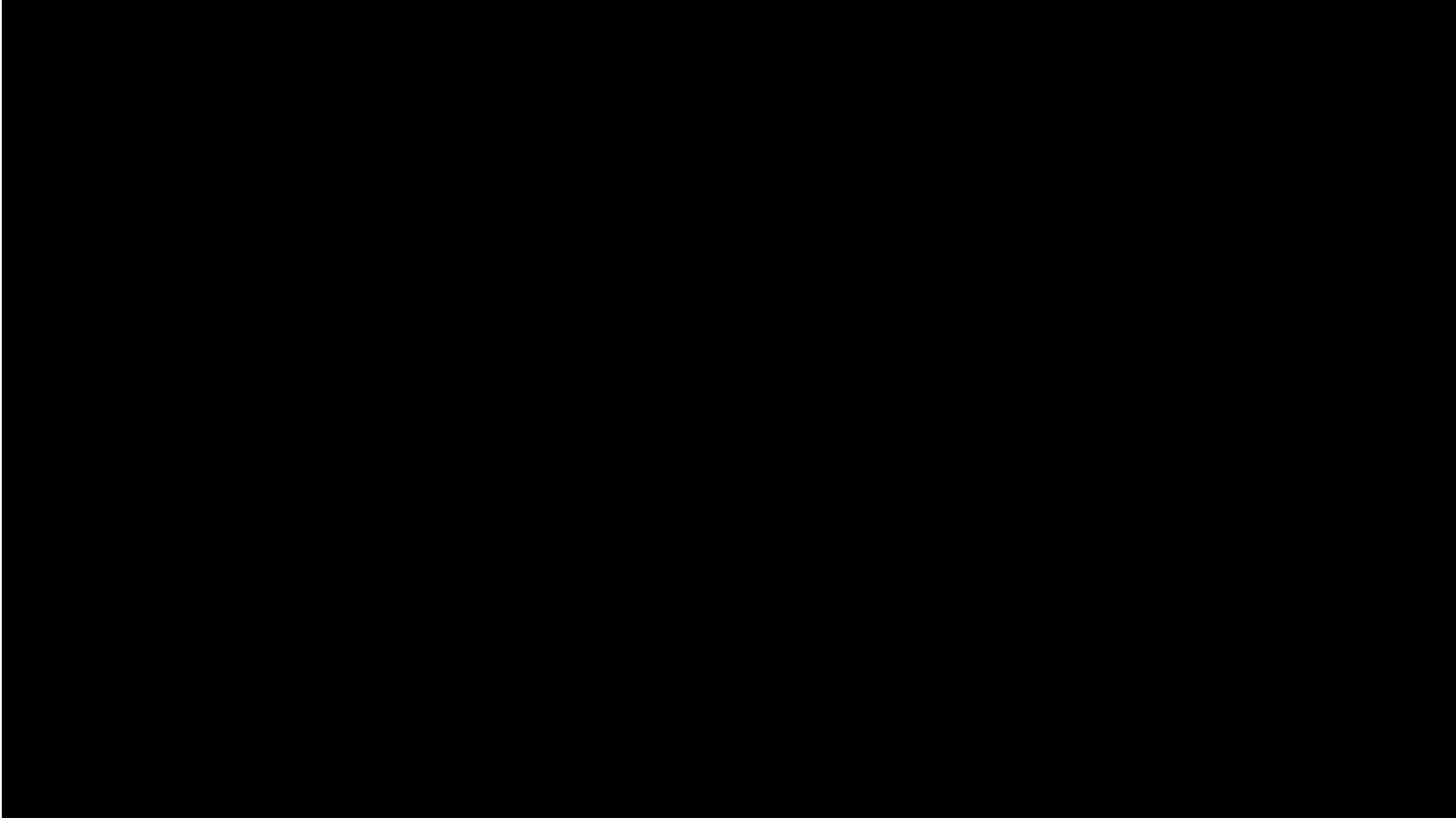
Utah challenge of DUI case law dearth because of justice court appeal system

UPC motion bank – countering most defense challenges in DUIs

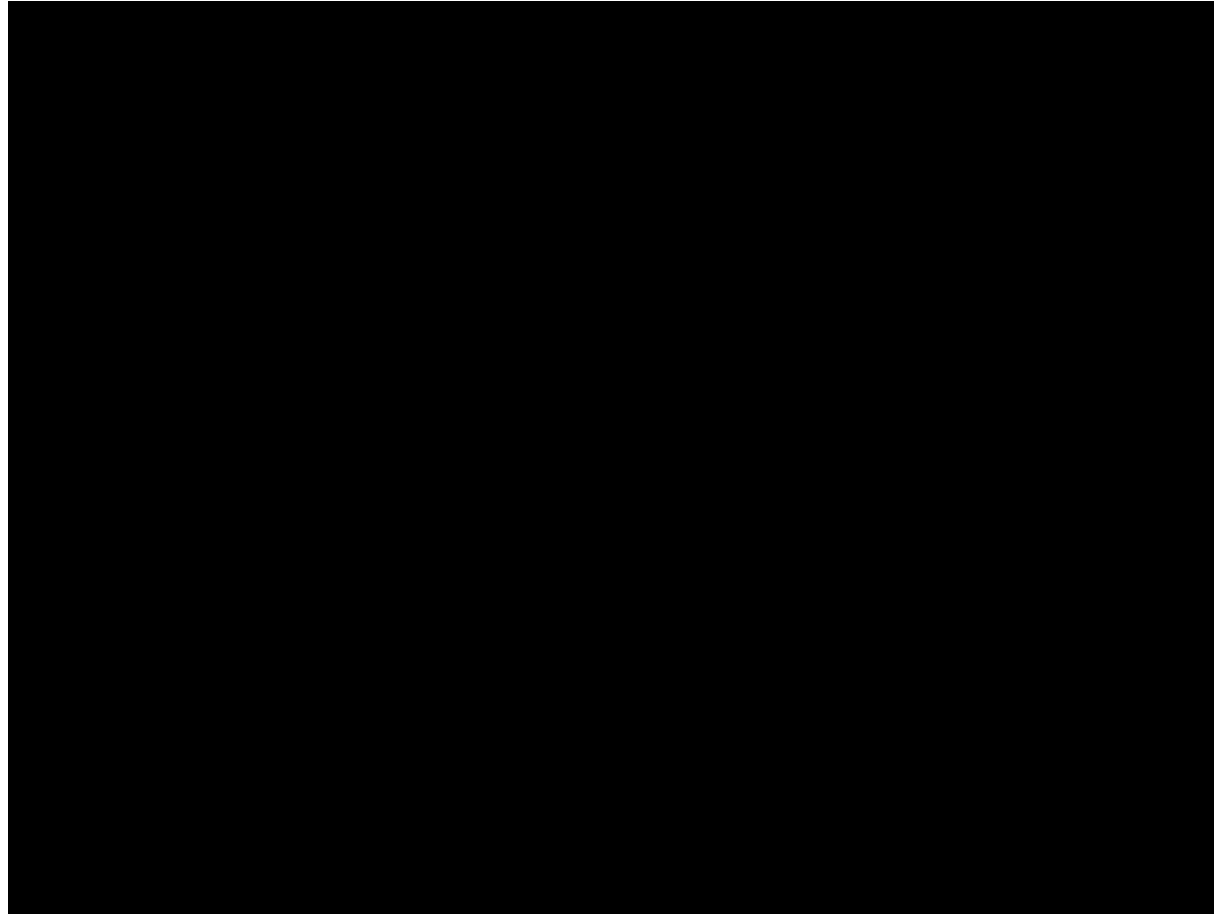
Or we know where to get it in Utah or nationally through any number of national forums

E.g., Utah expert – national response

Blood draw demo



Toxicology evidence lifecycle



Drager DrugTest® 5000 – Oral Fluid Drug Detection



Drager DrugTest® 5000 – Oral Fluid Drug Detection



Drager DrugTest® 5000 – Oral Fluid Drug Detection



Drager DrugTest® 5000 – Oral Fluid Drug Detection

Amphetamines

Benzodiazepines

Delta-9-tetrahydrocannabinol (THC)

Cocaine

Methamphetamine

Opiates

Methadone

No PIAs for CDL holders

49 CFR 384.226 Prohibition on masking convictions

The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CLP or CDL holder's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the CDLIS driver record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.

DLD will not honor most of these PIAs anyway.

United States - Domestic Violence

Every 9 seconds a woman is assaulted or beaten in the United States.

Domestic violence the leading cause of injury to women – more than car accidents, muggings, and rapes combined.

Victims lose nearly 8,000,000 days of paid work in United States alone = 32,000 full time jobs.

\$4,100,000,000.00 in direct health and medical care.

Children witness it.

Utah – Domestic Violence

2012 – 29 domestic violence related homicides

Utah Domestic Violence Cases Filed

<u>District</u>	<u>2011</u>	<u>2012</u>
1	43	64
2	507	600
3	1,679	1,933
4	466	451
5	254	350
6	35	15
7	44	62
8	33	56

Domestic Violence Practice Note – Victims Rights Act

Clear explanations about legal proceedings § 77-37-3(1)(c)

Notice “important criminal justice hearings” § 77-38-3

Only “where...victim has responded to the initial notice...” § 77-38-3(8)

To be heard at “important criminal justice hearings” § 77-38-4

Felonies § 77-38-3

Felonies, As and Bs § 77-38-5

Domestic Violence Practice Note: Recanting Victims

Forfeiture By Wrongdoing

Giles v. California, 554 U.S. 353 (2008).

State v. Poole, 2010 UT 25.

Motion in UPC motion bank

Mythology – “the system doesn’t care about DV”

1974 first battered women’s shelter – Minnesota

1977 89 battered women’s shelters

40 years on...

Most Americans no longer believe violence against women is tolerable

Victims portrayed sympathetically in popular culture and media

Mythology – “the system doesn’t care about DV”

Neighbors call in domestic violence to police rather than remain silent

Men and women are arrested for these offenses under carefully-crafted arrest policies

Protective orders are issued as a jail condition release

Charges are filed / cases are prosecuted

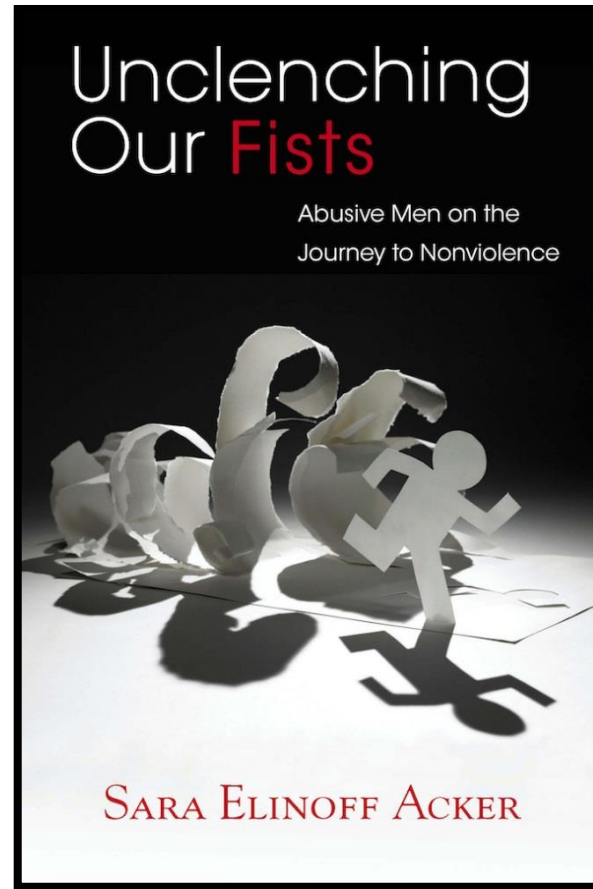
Mythology – “the system doesn’t care about DV”

There are dedicated domestic violence courts

There are mandatory batterer intervention classes

Funding under the Violence Against Women Act to improve criminal justice, social services and health systems’ response exceeds **\$3,000,000,000.00**

Mythology – DV offenders' prospects



Quality of Life Crimes



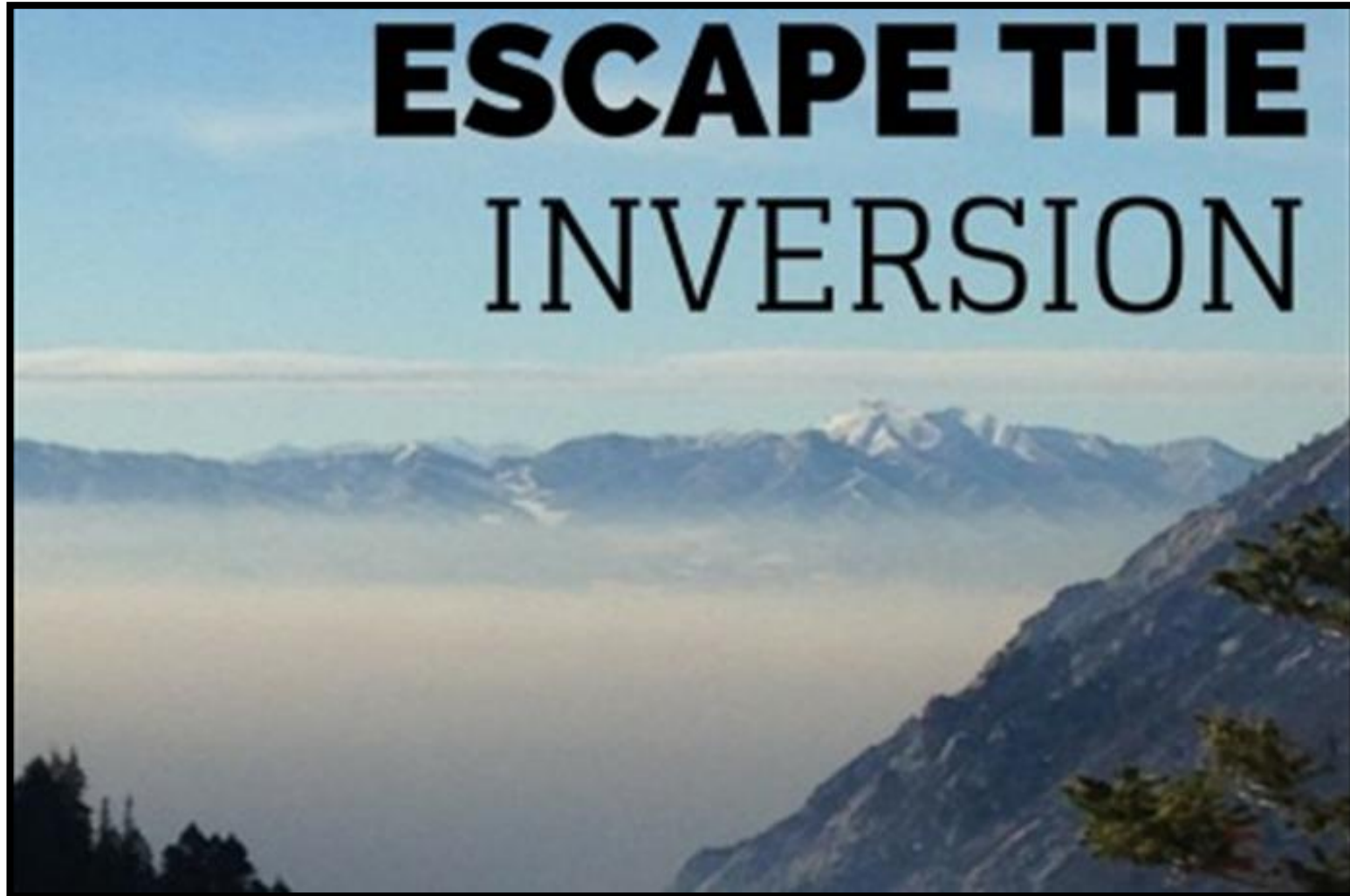
Building codes



Graffiti – Phoenix \$6,000,000.00 annually



Environmental



Animal Control & Safety



Hoarding / junk



Bonus

<http://www.pbs.org/newshour/spc/multimedia/bath-salts/>

Special Thanks – Brent Berkley

Director, NDAA National Center for the Prosecution of Violent Crime

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